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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 KENT E. KIMBERLY, M.D., an individual,
12
13 vs. Plaintiff,

14 SHARP REES-STEALY MEDICAL
15 GROUP INC. GROUP LONG TERM
16 DISABILITY INSURANCE PLAN,

Defendant.

CASE NO. 08CV157-MMA (POR)

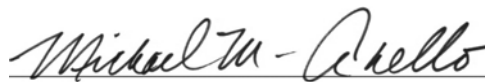
**ORDER WITHDRAWING
DEFENDANT'S MOTION TO
STRIKE, OR IN THE
ALTERNATIVE, TO DISMISS**

[Doc. No. 5]

17 On September 3, 2009, the Court issued an order for Defendant to file a notice withdrawing
18 its motion to strike, or in the alternative, to dismiss (Doc. No. 5). (Doc. No. 18.) Because Defendant
19 has failed to comply with the Court's order, the Court hereby sua sponte orders the motion
20 **WITHDRAWN** in accordance with the Court's September 3, 2009 order. Upon notification of the
21 Ninth Circuit's ruling *en banc* in the case *Cyr v. Reliance Standard Life Ins. Co.*, Nos. 07-56869, 08-
22 55234, Defendant shall contact Chambers to obtain a hearing date on a renewed motion, should it wish
23 to file one.

24 **IT IS SO ORDERED.**

25 DATED: September 14, 2009

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27 Hon. Michael M. Anello
28 United States District Judge